

CHAPTER 151**TAX ADMINISTRATION AND RELATED MATTERS**

S.F. 136

AN ACT relating to the administration of the tax and related laws by the department of revenue and finance, including administration of state individual income, corporate income, franchise, sales and use, motor fuel, cigarette and tobacco, local option, inheritance and estate, and property taxes, and the livestock production credit; providing penalties; and including effective and retroactive applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 421.1, unnumbered paragraph 8, Code 1999, is amended to read as follows:

The state board shall ~~hold at least six regular meetings each year, the first of which shall be on the second secular day of July~~ meet as deemed necessary by the chairperson. Special meetings of the state board may be called by the chairperson on five days' notice given to each member. All meetings shall be held at the office of the tax department unless a different place within the state is designated by the state board or in the notice of the meeting.

Sec. 2. Section 421.16, Code 1999, is amended to read as follows:

421.16 EXPENSES.

The director, ~~deputy directors~~, and department employees are entitled to receive from the state their actual necessary expenses while traveling on the business of the department. The expenditures shall be sworn to by the party who incurred the expense, and approved and allowed by the director. However, such expenses shall not be allowed residents of Polk county while in the city of Des Moines or traveling between their homes and the city of Des Moines.

Sec. 3. Section 421.18, Code 1999, is amended to read as follows:

421.18 DUTIES OF PUBLIC OFFICERS AND EMPLOYEES.

It shall be the duty of all public officers and employees of the state and ~~of all municipalities~~ local governments to give to the director of revenue and finance information in their possession relating to taxation when required by the director, and to co-operate with and aid the director's efforts to secure a fair, equitable, and just enforcement of the taxation and revenue laws.

Sec. 4. Section 422.5, subsections 3 and 11, Code 1999, are amended by striking the subsections.

Sec. 5. Section 422.13, subsection 5, Code 1999, is amended to read as follows:

5. Notwithstanding subsections 1 through 4 and sections 422.15 and 422.36, a partnership, a limited liability company whose members are taxed on the company's income under provisions of the Internal Revenue Code, trust, or corporation whose stockholders are taxed on the corporation's income under the provisions of the Internal Revenue Code ~~is entitled to request permission from the director~~ may, not later than the due date for filing its return for the taxable year, including any extension thereof, elect to file a composite return for the nonresident partners, members, beneficiaries, or shareholders. The director may ~~grant permission to file~~ or require that a composite return be filed under the conditions deemed appropriate by the director. A partnership, limited liability company, trust, or corporation filing a composite return is liable for tax required to be shown due on the return. All powers of the director and requirements of the director apply to returns filed under this subsection including, but not limited to, the provisions of this division and division VI of this chapter.

Sec. 6. Section 422.16, subsection 2, unnumbered paragraph 2, Code 1999, is amended to read as follows:

Every withholding agent on or before the end of the second month following the close of the calendar year in which the withholding occurs shall make an annual reporting of taxes withheld and other information prescribed by the director and send to the department copies of wage and tax statements with the return. At the discretion of the director, the withholding agent shall not be required to send wage statements and tax statements with the annual reporting return form if the information is available from the internal revenue service or other state or federal agencies.

Sec. 7. Section 422.23, unnumbered paragraph 2, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 8. Section 422.25, subsection 1, paragraph b, Code 1999, is amended to read as follows:

b. The period for examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return. In lieu of the period of limitation for any prior year for which an overpayment of tax or an elimination or reduction of an underpayment of tax due for that prior year results from the carryback to that prior year of a net operating loss or net capital loss, the period is the period of limitation for the taxable year of the net operating loss or net capital loss which results in the carryback. If the tax found due is greater than the amount paid, the department shall compute the amount due, together with interest and penalties as provided in subsection 2, and shall mail a notice of assessment to the taxpayer and, if applicable, to the taxpayer's authorized representative of the total, which shall be computed as a sum certain if paid on or before the last day of the month in which the notice is ~~postmarked dated~~, or on or before the last day of the following month if the notice is ~~postmarked dated~~ after the twentieth day of any month. The notice shall also inform the taxpayer of the additional interest and penalty which will be added to the total due if not paid on or before the last day of the applicable month.

Sec. 9. Section 422.25, subsection 3, Code 1999, is amended to read as follows:

3. If the amount of the tax as determined by the department is less than the amount paid, the excess shall be refunded with interest, the interest to begin to accrue on the first day of the second calendar month following the date of payment or the date the return was due to be filed, or the extended due date by which the return was due to be filed if ninety percent of the tax was paid by the original due date, or was filed, whichever is the latest, at the rate in effect under section 421.7 counting each fraction of a month as an entire month under the rules prescribed by the director. If an overpayment of tax results from a net operating loss or net capital loss which is carried back to a prior year, the overpayment, for purposes of computing interest on refunds, shall be considered as having been made on the date a claim for refund or amended return carrying back the net operating loss or net capital loss is filed with the department or on the first day of the second calendar month following the date of the actual payment of the tax, whichever is later. However, when the net operating loss or net capital loss carryback to a prior year eliminates or reduces an underpayment of tax due for an earlier year, the full amount of the underpayment of tax shall bear interest at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month from the due date of the tax for the earlier year to the last day of the taxable year in which the net operating loss or net capital loss occurred.

Sec. 10. Section 422.33, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A tax is imposed annually upon each corporation ~~organized under the laws of this state, and upon each foreign corporation~~ doing business in this state, or deriving income from sources within this state, in an amount computed by applying the following rates of taxation to the net income received by the corporation during the income year:

Sec. 11. Section 422.33, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If the trade or business of the corporation is carried on entirely within the state, the tax shall be imposed on the entire net income, but if the trade or business is carried on partly within and partly without the state or if income is derived from sources partly within and partly without the state, or if income is derived from trade or business and sources, all of which are not entirely in the state, the tax shall be imposed only on the portion of the net income reasonably attributable to the trade or business or sources within the state, with the net income attributable to the state to be determined as follows:

Sec. 12. Section 422.42, subsection 6, Code 1999, is amended to read as follows:

6. "Gross taxable services" means the total amount received in money, credits, property, or other consideration, valued in money, from services rendered, furnished, or performed in this state except where such service ~~is performed on tangible personal property delivered into interstate commerce or~~ is used in processing of tangible personal property for use in taxable retail sales or services and embraced within the provisions of this division. However, the taxpayer may take credit in the taxpayer's report of gross taxable services for an amount equal to the value of services rendered, furnished, or performed when the full value of ~~such the~~ services ~~thereof~~ is refunded either in cash or by credit. Taxes paid on gross taxable services represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon a subsequent payment of the tax due ~~hereunder~~, but if any ~~such~~ accounts are thereafter collected by the taxpayer, a tax shall be paid upon the amounts so collected.

Sec. 13. Section 422.42, subsection 18, unnumbered paragraph 1, Code 1999, is amended to read as follows:

"Services" means all acts or services rendered, furnished, or performed, other than services ~~performed on tangible personal property delivered into interstate commerce, or services~~ used in processing of tangible personal property for use in taxable retail sales or services, for an "employer" as defined in section 422.4, subsection 3, for a valuable consideration by any person engaged in any business or occupation specifically enumerated in this division. The tax shall be due and collectible when the service is rendered, furnished, or performed for the ultimate user ~~thereof~~ of the service.

Sec. 14. Section 422.44, unnumbered paragraph 2, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 15. Section 422.45, subsection 2, Code 1999, is amended to read as follows:

2. The gross receipts from the sales, furnishing, or service of transportation service except the rental of recreational vehicles or recreational boats, except the rental of motor vehicles subject to registration which are registered for a gross weight of thirteen tons or less for a period of sixty days or less, and except the rental of aircraft for a period of sixty days or less. This exemption does not apply to the transportation of electric energy.

Sec. 16. Section 422.45, subsection 2, Code 1999, is amended to read as follows:

2. The gross receipts from the sales, furnishing, or service of transportation service except the rental of recreational vehicles or recreational boats, except the rental of motor vehicles subject to registration which are registered for a gross weight of thirteen tons or less for a period of sixty days or less, and except the rental of aircraft for a period of sixty days or less. This exemption does not apply to the transportation of natural gas.

Sec. 17. Section 422.45, subsection 7, paragraph b, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Such governmental unit, educational institution, or nonprofit private museum shall, not more than ~~six months~~ one year after the final settlement has been made, make application to the department for any refund of the amount of ~~such the~~ sales or use tax which shall have

been paid upon any goods, wares or merchandise, or services rendered, furnished, or performed, ~~such the~~ application to be made in the manner and upon forms to be provided by the department, and the department shall forthwith audit ~~such the~~ claim and, if approved, issue a warrant to ~~such the~~ governmental unit, educational institution, or nonprofit private museum in the amount of ~~such the~~ sales or use tax which has been paid to the state of Iowa under ~~such the~~ contract.

Sec. 18. Section 422.45, subsection 46, Code 1999, is amended to read as follows:

46. The gross receipts from the sale of property or of services performed on property which the ~~seller~~ retailer transfers to a carrier for shipment to a point outside of Iowa, places in the United States mail or parcel post directed to a point outside of Iowa, or transports to a point outside of Iowa by means of the ~~seller's~~ retailer's own vehicles, and which is not thereafter returned to a point within Iowa, except solely in the course of interstate commerce or transportation. This exemption shall not apply if the purchaser, consumer, or their agent, other than a carrier, takes physical possession of the property in Iowa.

Sec. 19. Section 422.47, subsection 3, paragraphs a and b, Code 1999, are amended to read as follows:

a. The department shall issue or the seller may separately provide exemption certificates in the form prescribed by the director to assist retailers in properly accounting for nontaxable sales of tangible personal property or services to purchasers for ~~purposes of resale or for processing, except fuel consumed in processing a nontaxable purpose.~~ The department shall also allow the use of exemption certificates for those circumstances in which a sale is taxable but the seller is not obligated to collect tax from the buyer.

b. The sales tax liability for all sales of tangible personal property and all sales of services is upon the seller and the purchaser unless the seller takes in good faith from the purchaser a valid exemption certificate stating under penalties for perjury that the purchase is for ~~resale or for processing a nontaxable purpose~~ and is not a retail sale as defined in section 422.42, subsection 14, or the seller is not obligated to collect tax due, or unless the seller takes a fuel exemption certificate pursuant to subsection 4. If the tangible personal property or services are purchased tax free pursuant to a valid exemption certificate which is taken in good faith by the seller, and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely liable for the taxes and shall remit the taxes directly to the department and sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58, and 422.59 shall apply to the purchaser.

Sec. 20. Section 422.47, subsection 3, paragraph e, Code 1999, is amended to read as follows:

e. If the circumstances change and as a result the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner or the purchaser becomes obligated to pay the tax, the purchaser is liable solely for the taxes and shall remit the taxes directly to the department in accordance with this subsection.

Sec. 21. Section 422.47, subsection 4, paragraph c, Code 1999, is amended to read as follows:

c. The purchaser may apply to the department for its review of the fuel exemption certificate. In this event, the department shall review the fuel exemption certificate within twelve months from the date of application and determine the correct amount of the exemption. If the amount determined by the department is different than the amount that the purchaser claims is exempt, the department shall promptly notify the purchaser of the determination. Failure of the department to make a determination within twelve months from the date of application shall constitute a determination that the fuel exemption certificate is correct as submitted. A determination of exemption by the department is final unless the purchaser appeals to the director for a revision of the determination within ~~thirty~~ sixty days after the ~~postmark~~ date of the notice of determination. The director shall grant a hearing, and upon

the hearing the director shall determine the correct exemption and notify the purchaser of the decision by mail. The decision of the director is final unless the purchaser seeks judicial review of the director's decision under section 422.55 within ~~thirty~~ sixty days after the ~~postmark~~ date of the notice of the director's decision. Unless there is a substantial change, the department shall not impose penalties pursuant to section 422.58, both retroactively to purchases made after the date of application and prospectively until the department gives notice to the purchaser that a tax or additional tax is due, for failure to remit any tax due which is in excess of a determination made under this section. A determination made by the department pursuant to this subsection does not constitute an audit for purposes of section 422.54.

Sec. 22. Section 422.50, Code 1999, is amended to read as follows:
422.50 RECORDS REQUIRED.

It shall be the duty of every retailer required to make a ~~report~~ return and pay any tax under this division, to preserve those records of the gross ~~proceeds of receipts from sales or services~~ as the director may require and it shall be the duty of every retailer to preserve for a period of five years all invoices and other records of goods, wares, merchandise, or services ~~purchased for resale~~; and all these books, invoices, and other records shall be open to examination at any time by the department, and shall be made available within this state for examination upon reasonable notice when the director orders.

Sec. 23. Section 422.52, subsection 3, unnumbered paragraph 2, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 24. Section 422.68, subsection 4, Code 1999, is amended to read as follows:

4. The department may make photostat, microfilm, or other photographic copies of records, reports, and other papers either filed by the taxpayer or prepared by the department. In addition, the department may create and use any system of recordkeeping reasonably calculated to preserve its records for any time period required by law. When ~~such~~ photostat, ~~or~~ microfilm, ~~or other~~ copies have been made, the department may destroy ~~such the~~ original records which are the basis for the copies in such any manner as prescribed by the director. ~~Such photostat or~~ Photostat, microfilm, or other types of copies, when no longer of use, may be destroyed as provided in subsection 3. ~~Such photostat~~ Photostat, microfilm, or other ~~photographic~~ records shall be admissible in evidence when duly certified and authenticated by the officer having custody and control ~~thereof of them.~~

Sec. 25. Section 422.72, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

It is unlawful for the director, or any person having an administrative duty under this chapter, or any present or former officer or other employee of the state authorized by the director to examine returns, to divulge in any manner whatever, the business affairs, operations, or information obtained by an investigation under this chapter of records and equipment of any person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy of a return or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law. It is unlawful for any person to willfully inspect, except as authorized by the director, any return or return information. However, the director may authorize examination of such state returns and other state information which is confidential under this section, if a reciprocal arrangement exists, by tax officers of another state or the federal government. The director may, by rules adopted pursuant to chapter 17A, authorize examination of state information and returns by other officers or employees of this state to the extent required by their official duties and responsibilities. Disclosure of state information to tax officers of another state is limited to disclosures which have a tax administrative purpose and only to officers of those states which by agreement with this state limit the disclosure of the

information as strictly as the laws of this state protecting the confidentiality of returns and information. The director shall place upon the state tax form a notice to the taxpayer that state tax information may be disclosed to tax officials of another state or of the United States for tax administrative purposes.

Sec. 26. Section 422.110, Code 1999, is amended to read as follows:

422.110 INCOME TAX CREDIT IN LIEU OF REFUND.

In lieu of the fuel tax refund provided in ~~sections~~ section 452A.17 ~~to 452A.19~~, a person or corporation subject to taxation under divisions II or III of this chapter, ~~except persons or corporations licensed under section 452A.4~~, may elect to receive an income tax credit ~~for tax years beginning on or after January 1, 1975~~. The person or corporation which elects to receive an income tax credit shall cancel its refund permit obtained under section 452A.18 within thirty days after the first day of its tax year or the permit becomes invalid at that time. For the purposes of this section, "person" includes a person claiming a tax credit based upon the person's pro rata share of the earnings from a partnership, limited liability company, or corporation which is not subject to a tax under division II or III of this chapter as a partnership, limited liability company, or corporation. If the election to receive an income tax credit has been made, it remains effective for at least one tax year, and for subsequent tax years unless a change is requested and a new refund permit applied for within thirty days after the first day of the person's or corporation's tax year. The income tax credit shall be the amount of the Iowa fuel tax paid on fuel purchased by the person or corporation and ~~used as follows: is subject to the conditions provided in section 452A.17 with the exception that the income tax credit is not available for refunds relating to casualty losses, transport diversions, pumping credits, blending errors, idle time, power takeoffs, reefer units, and exports by eligible purchasers.~~

~~1. Motor fuel as defined in section 452A.2, subsection 17, used for the purpose of operating or propelling farm tractors, corn shellers, roller mills, truck mounted feed grinders, stationary engines, for producing denatured alcohol within the state, for cleaning or dyeing, or for any purpose other than in watercraft or aircraft or in motor vehicles operated or intended to be operated upon the public highways.~~

~~2. Special fuel, as defined in section 452A.2, used for the purpose of operation of corn shellers, roller mills, and feed grinders mounted on trucks.~~

~~3. Motor fuel placed in motor vehicles and used, other than on public highways, in the extraction and processing of natural deposits.~~

~~4. Motor fuel or special fuel used by a bona fide commercial fisher, licensed and operating under an owner's certificate for commercial fishing gear issued pursuant to section 482.4.~~

~~However, no credit shall be given with respect to motor fuel taken out of the state in fuel supply tanks of motor vehicles, motor fuel used in aircraft or watercraft, or motor fuel used in the performance of a contract which is paid out of state funds unless the contract for the work contains a certificate made under penalty for false certificate that the estimate, bid or price to be paid for the work includes no amount representing motor fuel tax subject to a credit. The right to a credit under this section is not assignable and the credit may be claimed only by the person or corporation that purchased the fuel.~~

Sec. 27. Section 422.111, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The fuel tax credit may be applied against the income tax liability of the person or corporation as determined on the tax return filed for the year in which the fuel tax was paid. The department shall provide forms for claiming the fuel tax credit. If the fuel tax credit would result in an overpayment of income tax, the person or corporation may apply for a refund of the amount of overpayment or may have the overpayment credited to income tax due in subsequent years. Each person or corporation that claims a fuel tax credit shall maintain the original invoices showing the purchase of the fuel on which a credit is claimed. ~~No~~ An invoice is not acceptable in support of a claim for credit unless ~~it~~ the invoice is a separate serially numbered invoice covering no more than one purchase of motor fuel or undyed

special fuel, prepared by the seller on a form approved by the department, ~~nor unless it or unless the invoice~~ is legibly written with no corrections or erasures and shows the date of sale, the name and address of the seller and of the purchaser, the kind of fuel, the gallonage in figures, the per gallon price of the fuel, the total purchase price including the Iowa fuel tax, and that the total purchase price has been paid. However, as to refund invoices made on a billing machine the department may waive these requirements. If an original invoice is lost or destroyed, the department may approve a credit supported by a copy identified and certified by the seller as being a true copy of the original. Each person or corporation that claims a fuel tax credit shall maintain complete records of purchases of motor fuel or undyed special fuel on which Iowa fuel tax was paid, and for which a fuel tax credit is claimed.

Sec. 28. Section 422.111, unnumbered paragraph 3, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 29. Section 422.121, Code 1999, is amended to read as follows:

422.121 APPROPRIATION — LIMITATION.

Beginning with the fiscal year beginning July 1, 1997, there is appropriated annually from the general fund of the state two million dollars to refund the credits allowed under this division. Notwithstanding section 422.120, for tax years beginning on or after January 1, 1997, the livestock production tax credit shall only be allowed for cow-calf operations. In calculating the tax credit for cow-calf operations for tax years beginning in the 1997 calendar year, mature beef cows bred or for breeding, bred yearling heifers, and breeding bulls in the operations' inventory on December 31 of the tax year which were also in the operations on July 1 of the tax year and stockers and feeders sold during the tax year may be counted. In calculating the tax credit for cow-calf operations for tax years beginning on or after January 1, 1998, only those bred cows, bred heifers, and breeding bulls in the operations' inventory on December 31 of the tax year which were also in the operations on July 1 of the tax year may be counted.

Sec. 30. Section 422B.8, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the gross receipts taxed by the state under chapter 422, division IV. A local sales and services tax shall be imposed on the same basis as the state sales and services tax and ~~may shall~~ not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of natural gas or electric energy in a city or county where the gross receipts are subject to a franchise fee or user fee during the period the franchise or user fee is imposed, on the gross receipts from the sale of equipment by the state department of transportation, on the gross receipts from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

Sec. 31. Section 422B.8, unnumbered paragraphs 1 and 3, Code 1999, are amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the gross receipts taxed by the state under chapter 422, division IV. A local sales and services tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and may not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, ~~on the gross receipts from the sale of natural gas or electric energy in a city or county where the gross receipts are subject to a franchise fee or user fee during the period the franchise or user fee is imposed,~~ on the gross receipts from the sale of equipment by the state department of transportation, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E and except the tax shall not be imposed on the gross receipts from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the gross receipts from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

A tax permit other than the state tax permit required under section 422.53 or 423.10 shall not be required by local authorities.

Sec. 32. Section 422B.8, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a local sales and services tax is imposed by a county pursuant to this chapter, a local excise tax at the same rate shall be imposed by the county on the purchase price of natural gas, natural gas service, electricity, or electric service subject to tax under chapter 423 and not exempted from tax by any provision of chapter 423. The local excise tax is applicable only to the use of natural gas, natural gas service, electricity, or electric service within those incorporated and unincorporated areas of the county where it is imposed and, except as otherwise provided in this chapter, shall be collected and administered in the same manner as the local sales and services tax. For purposes of this chapter, "local sales and services tax" shall also include the local excise tax.

Sec. 33. Section 422B.9, subsection 2, paragraph b, Code 1999, is amended to read as follows:

b. The ordinance of a county board of supervisors imposing a local sales and services tax shall adopt by reference the applicable provisions of the appropriate sections of chapter 422, division IV and chapter 423. All powers and requirements of the director to administer the state gross receipts tax law and use tax law are applicable to the administration of a local sales and services tax law and the local excise tax, including but not limited to, the provisions of section 422.25, subsection 4, sections 422.30, 422.48 to 422.52, 422.54 to 422.58, 422.67, 422.68, 422.69, subsection 1, and sections 422.70 to 422.75, 423.6, subsections 2 to 4, and sections 423.11 to 423.18, and 423.21. Local officials shall confer with the director of revenue and finance for assistance in drafting the ordinance imposing a local sales and services tax. A certified copy of the ordinance shall be filed with the director as soon as possible after passage.

Sec. 34. Section 422B.10, subsection 2, paragraph c, Code 1999, is amended to read as follows:

c. The director of revenue and finance shall remit a final payment of the remainder of tax moneys due the city or county for the fiscal year before November 10 of the next fiscal year. If an overpayment has resulted during the previous fiscal year, the ~~first~~ November payment ~~of the new fiscal year~~ shall be adjusted to reflect any overpayment.

Sec. 35. Section 422D.3, unnumbered paragraph 4, Code 1999, is amended to read as follows:

The director, in consultation with local officials, shall collect and account for a local income surtax and any interest and penalties. The director shall credit local income surtax receipts and any interest and penalties collected from returns filed on or before November 1 of the calendar year following the tax year for which the local income surtax is imposed to a "local income surtax fund" established in the ~~office of the treasurer of state~~ department of revenue and finance. All local income surtax receipts and any interest and penalties received or refunded from returns filed after November 1 of the calendar year following the tax year for which the local income surtax is imposed shall be deposited in or withdrawn from the state general fund and shall be considered part of the cost of administering the local income surtax.

Sec. 36. Section 422E.1, subsection 1, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a local sales and services tax for school infrastructure is imposed by a county pursuant to this chapter, a local excise tax for school infrastructure at the same rate shall be imposed by the county on the purchase price of natural gas, natural gas service, electricity, or electric service subject to tax under chapter 423 and not exempted from tax by any provision of chapter 423. The local excise tax for school infrastructure is applicable only to the use of natural gas, natural gas service, electricity, or electric service within those incorporated and unincorporated areas of the county where it is imposed and, except as otherwise provided in this chapter, shall be collected and administered in the same manner as the local sales and services tax for school infrastructure. For purposes of this chapter, "local sales and services tax for school infrastructure" shall also include the local excise tax for school infrastructure.

Sec. 37. Section 422E.3, subsection 2, Code 1999, is amended to read as follows:

2. The tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of equipment by the state department of transportation, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E and except the tax shall not be imposed on the gross receipts from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the gross receipts from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

Sec. 38. Section 422E.3, subsection 2, Code 1999, is amended to read as follows:

2. The tax shall be imposed on the same basis as the state sales and services tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel

tax is imposed, on the gross receipts from the sale of equipment by the state department of transportation, on the gross receipts from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment, and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures. and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E.

Sec. 39. Section 422E.3, subsection 3, Code 1999, is amended to read as follows:

3. The tax is applicable to transactions within the county where it is imposed and shall be collected by all persons required to collect state gross receipts or local excise taxes. The amount of the sale, for purposes of determining the amount of the tax, does not include the amount of any state gross receipts or excise taxes or other local option sales or excise taxes. A tax permit other than the state tax permit required under section 422.53 or 423.10 shall not be required by local authorities.

Sec. 40. Section 424.10, subsections 2 and 3, Code 1999, are amended to read as follows:

2. If a return required by this chapter is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the return is required by notice from the department, the department shall determine the amount of charge due from information as the department may be able to obtain and, if necessary, may estimate the charge on the basis of external indices or factors. The department shall give notice of the determination to the person liable for the charge. The determination shall fix the charge unless the person against whom it is assessed shall, within sixty days after the ~~giving of~~ date of the notice of the determination, apply to the director for a hearing or unless the taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. At the hearing evidence may be offered to support the determination or to prove that it is incorrect. After the hearing the director shall give notice of the decision to the person liable for the charge.

If a depositor's, receiver's, or other person's challenge relates to the diminution rate, the burden of proof upon the challenger shall only be satisfied by clear and convincing evidence.

3. If the amount paid is greater than the correct charge, penalty, and interest due, the department shall refund the excess, with interest after sixty days from the date of payment at the rate in effect under section 421.7, pursuant to rules prescribed by the director. However, the director shall not allow a claim for refund that has not been filed with the department within five years after the charge payment upon which a refund is claimed became due, or one year after the charge payment was made, whichever time is later. A determination by the department of the amount of charge, penalty, and interest due, or the amount of refund for any excess amount paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within ~~thirty~~ sixty days from the ~~postmark~~ date of the notice of determination of charge, penalty, and interest due or refund owing. The director shall grant a hearing, and upon hearing the director shall determine the correct charge, penalty, and interest due or refund owing, and notify the appellant of the decision by mail. The decision of the director is final unless the appellant seeks judicial review of the director's decision under section 424.13.

Sec. 41. Section 427.1, subsection 14, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A society or organization claiming an exemption under subsection 5 or subsection 8 ~~of this section~~ shall file with the assessor not later than ~~July 1~~ April 15 a statement upon forms to be prescribed by the director of revenue and finance, describing the nature of the property upon which the exemption is claimed and setting out in detail any uses and income from the

property derived from the rentals, leases, or other uses of the property not solely for the appropriate objects of the society or organization. Upon the filing and allowance of the claim, the claim shall be allowed on the property for successive years without further filing as long as the property is used for the purposes specified in the original claim for exemption. When the property is sold or transferred, the county recorder shall provide notice of the transfer to the assessor. The notice shall describe the property transferred and the name of the person to whom title to the property is transferred.

Sec. 42. Section 427.1, subsection 24, Code 1999, is amended to read as follows:

24. LAND CERTIFIED AS A WILDLIFE HABITAT. The owner of agricultural land may designate not more than two acres of the land for use as a wildlife habitat. After inspection, if the land meets the standards established by the natural resource commission for a wildlife habitat under section 483A.3, the department of natural resources shall certify the designated land as a wildlife habitat and shall send a copy of the certification to the appropriate assessor not later than February 1 of the assessment year for which the exemption is requested. The department of natural resources may subsequently withdraw certification of the designated land if it fails to meet the established standards for a wildlife habitat and the assessor shall be given written notice of the decertification.

Sec. 43. Section 428.1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Every person shall list for the assessor all property subject to taxation in the state, of which the person is the owner, or has the control or management, in the following manner including but not limited to the following:

Sec. 44. Section 429.2, subsection 1, Code 1999, is amended to read as follows:

1. Notwithstanding the provisions of chapter 17A, the taxpayer shall have thirty days from the date of ~~postmark~~ of the notice of assessment to appeal the assessment to the state board of tax review. Thereafter, the proceedings before the state board of tax review shall conform to the provisions of subsection 2, section 421.1, subsection 4, and chapter 17A.

Sec. 45. Section 450.7, subsection 1, unnumbered paragraph 2, Code 1999, is amended to read as follows:

Inheritance taxes owing with respect to a passing of property of a deceased person are no longer a lien against the property ten years from the date of death of the decedent owner regardless of whether the decedent owner died prior to or subsequent to July 1, 1995, except to the extent taxes are attributable to remainder or deferred interests and are deferred in accordance with the provisions of this chapter.

Sec. 46. Section 450.22, Code 1999, is amended to read as follows:

450.22 ADMINISTRATION AVOIDED — INHERITANCE TAX DUTIES REQUIRED.

When the heirs or persons entitled to inherit the property of an estate subject to tax under this chapter desire to avoid the appointment of a personal representative as provided in section 450.21, and in all instances where real estate is involved and there are no regular probate proceedings, they or one of them shall file under oath the inventories required by section 633.361 and the required reports, perform all the duties required by this chapter of the personal representative, and file the inheritance tax return. However, this section does not apply and a return is not required even though real estate is part of the assets subject to tax under this chapter, if all of the assets are held in joint tenancy with right of survivorship between husband and wife alone, or if the estate exclusively consists of property held in joint tenancy with the right of survivorship solely by the decedent and any individuals listed in section 450.9 as individuals that are entirely exempt from Iowa inheritance tax and the estate does not have a federal estate tax obligation. When this section applies, proceedings for the collection of the tax when a personal representative is not appointed, shall conform as nearly as possible to proceedings under this chapter in other cases.

Sec. 47. Section 450.37, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 3. In addition to the applicable period of limitation for examination and determination, the department shall make an examination to adjust the value of real property for Iowa inheritance tax purposes to the value accepted by the internal revenue service for federal estate tax purposes. The department shall make an examination and adjustment for the value of the real property at any time within six months from the date of receipt by the department of written notice from the personal representative for the estate that all federal estate tax matters between the estate and the internal revenue service have been concluded. To begin the running of the six-month period, the notice shall be in writing in a form sufficient to inform the department of the final disposition of the federal estate tax obligation with the internal revenue service and a copy of the federal document showing the final disposition and final federal adjustments of all real property values must be attached. The department shall make an adjustment to the value of real property for inheritance tax purposes to the value accepted for federal estate tax purposes regardless of whether an inheritance clearance has been issued, an appraisal has been obtained on the real property indicating a contrary value, whether there has been an acceptance of another value for real property by the department, or whether an agreement has been entered into by the department and the personal representative for the estate and persons having an interest in the real property regarding the value of the real property. Notwithstanding the period of limitation specified in section 450.94, subsection 3, the personal representative for the estate shall have six months from the day of final disposition of any real property valuation matter between the personal representative for the estate and the internal revenue service to claim a refund of an overpayment of tax due to the change in the valuation of real property by the internal revenue service.

Sec. 48. Section 450.94, subsections 2 and 3, Code 1999, are amended to read as follows:

2. The taxpayer shall file an inheritance tax return on forms to be prescribed by the director of revenue and finance on or before the last day of the ninth month after the death of the decedent. When an inheritance tax return is filed, the department shall examine it and determine the correct amount of tax. If the amount paid is less than the correct amount due, the department shall notify the taxpayer of the total amount due together with any penalty and interest which shall be a sum certain if paid on or before the last day of the month in which the notice is ~~postmarked~~ dated, or on or before the last day of the following month if the notice is ~~postmarked~~ dated after the twentieth day of a month and before the first day of the following month.

3. If the amount paid is greater than the correct tax, penalty, and interest due, the department shall refund the excess with interest. Interest shall be computed at the rate in effect under section 421.7, under the rules prescribed by the director counting each fraction of a month as an entire month and the interest shall begin to accrue on the first day of the second calendar month following the date of payment or on the date the return was due to be filed or was filed, whichever is the latest. However, the director shall not allow a claim for refund or credit that has not been filed with the department within three years after the tax payment upon which a refund or credit is claimed became due, or one year after the tax payment was made, whichever time is later. A determination by the department of the amount of tax, penalty, and interest due, or the amount of refund for excess tax paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within sixty days from the ~~postmark~~ date of the notice of determination of tax, penalty, and interest due or refund owing or unless the taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. The director shall grant a hearing, and upon the hearing the director shall determine the correct tax, penalty, and interest or refund due, and notify the appellant of the decision by mail. The decision of the director is final unless the appellant seeks judicial review of the director's decision under section 450.59 within sixty days after the ~~postmark~~ date of the notice of the director's decision.

Sec. 49. Section 451.12, Code 1999, is amended to read as follows:

451.12 APPLICABLE STATUTES — PENALTIES.

All the provisions of chapter 450 with respect to the lien provisions of section 450.7, and the determination, imposition, payment, and collection of the tax imposed under that chapter, including penalty and interest upon delinquent taxes and the confidentiality of the tax return, are applicable to this chapter, except as they are in conflict with this chapter. The exceptions to the lien provisions found in section 450.7 do not apply to this chapter. The penalty provisions set out in section 450.53 shall apply to a person in possession of assets to be reported for purposes of taxation who willfully makes a false or fraudulent return or willfully fails to pay the tax, supply the information, make, sign, or file the required return within the time required by law or a person who willfully attempts in any manner to evade taxes imposed by this chapter or avoid payment of the tax. The director of revenue and finance shall adopt rules necessary for the enforcement of this chapter.

Sec. 50. Section 452A.2, subsection 11, Code 1999, is amended to read as follows:

11. "Exporter" means a person or other entity who acquires fuel in this state ~~exclusively~~ for export to another state.

Sec. 51. Section 452A.2, subsection 17, paragraph a, Code 1999, is amended to read as follows:

a. All products commonly or commercially known or sold as gasoline, ~~(including casing-head and absorption or natural gasoline),~~ regardless of their classifications or uses, and including transmix which serves as a buffer between fuel products in the pipeline distribution process.

Sec. 52. Section 452A.3, subsection 5, paragraph b, Code 1999, is amended to read as follows:

b. The person who owns ~~or causes the fuel to be~~ at the time it is brought into the state by a restrictive supplier or importer, upon the invoiced gross gallonage of motor fuel or undyed special fuel imported.

Sec. 53. Section 452A.8, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

For the purpose of determining the amount of the supplier's, restrictive supplier's, or importer's tax liability, a supplier or restrictive supplier shall file a return, not later than the last day of the month following the month in which this division becomes effective and not later than the last day of each calendar month thereafter, and an importer shall file a ~~report~~ return semi-monthly with the department, signed under penalty for false certification. For an importer for the reporting period from the first day of the month through the fifteenth of the month, the ~~report~~ return is due on the last day of the month. For an importer for the reporting period from the sixteenth of the month through the last day of the month, the ~~report~~ return is due on the fifteenth day of the following month. The ~~reports~~ returns shall include the following:

Sec. 54. Section 452A.8, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

At the time of filing a ~~report~~ return, a supplier or restrictive supplier shall pay to the department the full amount of the fuel tax due for the preceding calendar month. An importer shall pay to the department the full amount of fuel tax due for the preceding semi-monthly period. The tax shall be computed as follows:

Sec. 55. Section 452A.8, subsection 2, paragraph d, Code 1999, is amended to read as follows:

d. The director may require by rule that reports and returns be filed by electronic transmission.

Sec. 56. Section 452A.8, subsection 3, Code 1999, is amended to read as follows:

3. For the purpose of determining the amount of the tax liability on alcohol blended to produce ethanol blended gasoline, each licensed blender shall, not later than the last day of each month following the month in which the blending is done, file with the department a monthly ~~report~~ return, signed under penalty for false certificate, containing information required by rules adopted by the director.

Sec. 57. Section 452A.9, Code 1999, is amended to read as follows:

452A.9 ~~REPORT RETURNS~~ FROM PERSONS NOT LICENSED AS SUPPLIERS, RESTRICTIVE SUPPLIERS, OR IMPORTERS.

Every person other than a licensed supplier, restrictive supplier, or importer, who purchases, brings into this state, or otherwise acquires within this state motor fuel or undyed special fuel, not otherwise exempted, which the person has knowingly not paid or incurred liability to pay either to a licensee or to a dealer the motor fuel or special fuel tax, shall be subject to the provisions of this division that apply to suppliers, restrictive suppliers, and importers of motor fuel or undyed special fuel and shall ~~make file~~ the same reports returns and ~~make the same~~ tax payments and be subject to the same penalties for delinquent ~~reporting or nonreporting filing or nonfiling~~ or delinquent payment or nonpayment as apply to suppliers, restrictive suppliers, and importers.

Sec. 58. Section 452A.15, subsection 3, Code 1999, is amended to read as follows:

3. The reports required in this section shall be for information purposes only and the department may in its discretion waive the filing of any of these reports not necessary for proper administration of this division. The reports required in this section shall be certified under penalty for false certificate and filed with the department within the time allowed for filing of suppliers' and restrictive suppliers' ~~reports returns~~ of motor fuel or special fuel withdrawn from a terminal within this state or imported into this state.

Sec. 59. Section 452A.17, subsection 1, paragraph a, subparagraphs (4) and (6), Code 1999, are amended to read as follows:

(4) Fuel used in unlicensed vehicles, stationary engines, and implements used in agricultural production, ~~and machinery and equipment used for nonhighway purposes.~~

(6) Fuel used for idle time, power takeoffs, reefer units, pumping credits, and transport diversions, fuel lost through casualty, exports by ~~eligible purchasers~~ distributors, and blending errors for special fuel. The department shall adopt rules setting forth specific requirements relating to refunds for idle time, power takeoffs, reefer units, pumping credits, and transport diversions, fuel lost through casualty, and blending errors for special fuel.

Sec. 60. Section 452A.17, subsection 1, paragraph b, subparagraphs (4) and (5), Code 1999, are amended to read as follows:

(4) The claim shall state the ~~gallage of motor fuel or undyed special fuel~~ that was used or will be used by the claimant other than in aircraft, watercraft, or to propel motor vehicles ~~and the gallage of undyed special fuel that was or will be used by the claimant other than in aircraft or to propel motor vehicles~~, the manner in which the motor fuel or undyed special fuel was used or will be used, and the equipment in which it was used or will be used.

(5) The claim shall state whether the claimant used fuel for aircraft, watercraft, or to propel motor vehicles from the same tanks or receptacles in which the claimant kept the motor fuel ~~or undyed special fuel~~ on which the refund is claimed ~~or whether the claimant used fuel for aircraft or to propel motor vehicles from the same tanks or receptacles in which the claimant kept the undyed special fuel on which the refund is claimed.~~

Sec. 61. Section 452A.17, subsection 2, Code 1999, is amended to read as follows:

2. In lieu of the refund provided in this section, a person may receive an income tax credit as provided in chapter 422, division IX, but only as to motor fuel ~~or undyed special fuel~~ not used in motor vehicles, aircraft, or watercraft ~~or as to undyed special fuel not used in motor vehicles or aircraft.~~

Sec. 62. Section 452A.17, subsection 3, paragraph b, Code 1999, is amended to read as follows:

b. A refund shall not be paid with respect to any motor fuel ~~or undyed special fuel~~ taken out of this state in supply tanks of watercraft, aircraft, or motor vehicles ~~or with respect to any undyed special fuel taken out of this state in supply tanks of aircraft or motor vehicles.~~

Sec. 63. Section 452A.17, subsection 3, paragraph c, Code 1999, is amended by striking the paragraph.

Sec. 64. Section 452A.21, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Persons not licensed under this division who blend motor fuel and alcohol to produce ethanol blended gasoline may file for a refund for the difference between taxes paid on the motor fuel purchased to produce ethanol blended gasoline and the tax due on the ethanol blended gasoline blended. If, during any month, a person licensed under this division uses tax paid motor fuel to blend ethanol blended gasoline and the refund otherwise due under this section is greater than the licensee's total tax liability for that month, the licensee is entitled to a credit. The claim for credit shall be filed as part of the ~~report~~ return required by section 452A.8.

Sec. 65. Section 452A.21, unnumbered paragraph 3, Code 1999, is amended to read as follows:

A refund shall not be issued unless the claim is filed within ~~ninety days~~ one year following the end of the month during which the ethanol blended gasoline was actually blended. An income tax credit is not allowed under this section.

Sec. 66. NEW SECTION. 452A.22 TAX COLLECTED ON EXEMPT FUEL.

If an amount of tax represented by a licensee to a purchaser as constituting tax due is computed upon gallonage that is not taxable or the amount represented is in excess of the actual amount of tax due and the amount represented is actually paid by the purchaser to the licensee, the excess amount of tax paid shall be returned to the purchaser by the licensee. If the licensee fails to return the excess tax paid to the purchaser, the amount which the purchaser has paid to the licensee shall be remitted by the licensee to the department.

Sec. 67. Section 452A.60, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The department of revenue and finance or the state department of transportation shall prescribe and furnish all forms, as applicable, upon which reports, returns, and applications shall be made and claims for refund presented under this chapter and may prescribe forms of record to be kept by suppliers, restrictive suppliers, importers, exporters, blenders, common carriers, contract carriers, licensed compressed natural gas and liquefied petroleum gas dealers and users, terminal operators, and interstate commercial motor vehicle operators.

Sec. 68. Section 452A.61, Code 1999, is amended to read as follows:

452A.61 TIMELY FILING OF REPORTS AND RETURNS — EXTENSION.

The reports, returns, and remittances required under this chapter shall be deemed filed within the required time if postpaid, properly addressed and postmarked on or before midnight of the day on which due and payable. If the final filing date falls on a Saturday, Sunday or legal holiday the next secular or business day shall be the final filing date.

The department of revenue and finance or the state department of transportation upon application may grant a reasonable extension of time for the filing of any required report, return, or tax payment, ~~or both~~.

Sec. 69. Section 452A.63, Code 1999, is amended to read as follows:

452A.63 INFORMATION CONFIDENTIAL.

All information obtained by the department of revenue and finance or the state department of transportation from the examining of reports, returns, or records required to be filed or kept under this chapter shall be treated as confidential and shall not be divulged except to other state officers, a member or members of the general assembly, or any duly appointed committee of either or both houses of the general assembly, or to a representative of the state having some responsibility in connection with the collection of the taxes imposed or in proceedings brought under ~~the provisions of~~ this chapter. The appropriate state agency may make available to the public on or before forty-five days following the last day of the month in which the tax is required to be paid, the names of suppliers, restrictive suppliers, and importers and as to each of them the total gallons of motor fuel, undyed special fuel, and ethanol-blended gasoline withdrawn from terminals or imported into the state during that month. The department of revenue and finance or the state department of transportation, upon request of officials entrusted with enforcement of the motor vehicle fuel tax laws of the federal government or any other state, may forward to ~~such~~ these officials any pertinent information which the appropriate state agency may have relative to motor fuel and special fuel provided the officials of the other state furnish like information.

Any person violating ~~the provisions of~~ this section, and disclosing the contents of any records, returns, or reports required to be kept or made under ~~the provisions of~~ this chapter, except as otherwise provided, shall be guilty of a simple misdemeanor.

Sec. 70. Section 452A.67, Code 1999, is amended to read as follows:

452A.67 LIMITATION ON COLLECTION PROCEEDINGS.

The department shall examine the return and enforce collection of any amount of tax, penalty, fine, or interest over and above the amount shown to be due by ~~reports~~ the return filed by a licensee as soon as practicable but no later than three years after the return is filed. An assessment shall not be made covering a period beyond three years after the return is filed except that the period for the examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return.

The three-year period of limitation may be extended by a taxpayer by signing a waiver agreement form to be provided by the department. The agreement must stipulate the period of extension and the tax period to which the extension applies. The agreement must also provide that a claim for refund may be filed by the taxpayer at any time during the period of extension.

Sec. 71. Section 452A.68, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If a licensee files a false ~~report~~ return of the data or information required by this chapter, or fails, refuses, or neglects to file a ~~report~~ return required by this chapter, or to pay the full amount of fuel tax as required by this chapter, or is substantially delinquent in paying a tax due, owing, and administered by the department of revenue and finance, and interest and penalty if appropriate, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the licensee corporation, or interest or penalty on the tax, administered by the department, then after ten days' written notice by mail directed to the last known address of the licensee setting a time and place at which the licensee may appear and show cause why the license should not be canceled, and if the licensee fails to appear or if upon the hearing it is shown that the licensee failed to correctly report or pay the tax, the appropriate state agency may cancel the license and shall notify the licensee of the cancellation by mail to the licensee's last known address.

Sec. 72. Section 452A.74A, subsection 7, Code 1999, is amended to read as follows:

7. FALSE OR FRAUDULENT REPORT OR RETURN. Any person, including an officer of a corporation or a manager of a limited liability company, who is required to make, render, sign, or verify any report or return required by this chapter and who makes a false or

fraudulent report or return, or who fails to file a report or return with the intent to evade the tax, shall be guilty of a fraudulent practice. Any person who aids, abets, or assists another person in making any false or fraudulent report or return or false statement in any report or return with the intent to evade payment of tax shall be guilty of a fraudulent practice.

Sec. 73. Section 452A.86, Code 1999, is amended to read as follows:

452A.86 METHOD OF DETERMINING GALLONAGE.

The exclusive method of determining gallonage of any purchases or sales of motor fuel, undyed special fuel, compressed natural gas, or liquefied petroleum gas as defined in this chapter and distillate fuels shall be on a gross volume basis. A temperature-adjusted or other method shall not be used, except as it applies to liquefied petroleum gas and the sale or exchange of petroleum products between petroleum refiners. All invoices, bills of lading, or other records of sale or purchase and all ~~reports~~ returns or records required to be made, kept, and maintained by a supplier, restrictive supplier, importer, exporter, blender, or compressed natural gas or liquefied petroleum gas dealer or user shall be made, kept, and maintained on the gross volume basis. For purposes of this section, "distillate fuels" means any fuel oil, gas oil, topped crude oil, or other petroleum oils derived by refining or processing crude oil or unfinished oils which have a boiling range at atmospheric pressure which falls completely or in part between five hundred fifty and twelve hundred degrees Fahrenheit.

Sec. 74. Section 453A.6, subsection 3, Code 1999, is amended to read as follows:

3. Payment of ~~such the~~ tax shall be evidenced by stamps purchased from the department by a distributor or manufacturer and securely affixed to each individual package of cigarettes in amounts equal to the tax ~~thereon~~ as imposed by this chapter, or by the impressing of an indicium upon individual packages of cigarettes, under regulations prescribed by the director.

Sec. 75. Section 453A.6, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 4. Any other person who purchases or is in possession of unstamped cigarettes shall pay the tax directly to the department.

NEW SUBSECTION. 5. The per cigarette amount of the tax shall be added to the selling price of every package of cigarettes sold in this state and shall be collected from the purchaser so that the ultimate consumer bears the burden of the tax.

Sec. 76. Section 453A.8, subsection 1, Code 1999, is amended to read as follows:

1. Stamps shall be sold by and purchased from the department. The department shall sell stamps to the holder of a state distributor's or manufacturer's permit which has not been revoked and to no other person. Stamps shall be sold to the permit holders at a discount of two percent of the face value. Stamps shall be sold in ~~unbroken books of one thousand stamps~~, unbroken rolls of thirty thousand stamps, or unbroken lots of any other form authorized by the director.

Sec. 77. Section 453A.15, subsections 1, 3, 4, and 6, Code 1999, are amended to read as follows:

1. The director may prescribe the forms necessary for the efficient administration of this division and may require uniform books and records to be used and kept by each permit holder or other person as deemed necessary. The director may also require each permit holder or other person to keep and retain in the director's possession evidence on prescribed forms of all transactions involving the purchase and sale of cigarettes or the purchase and use of stamps. The evidence shall be kept for a period of two years from the date of each transaction, for the inspection at all times by the department.

3. The director may by regulation require every holder of a manufacturer's or state permit or other person to make and deliver to the department on or before the tenth day of each month a report or reports for the preceding calendar month, upon a form or forms prescribed by the director, and may require that ~~such the~~ reports shall be properly sworn to and executed by the permit holder or the holder's duly authorized representative or other person.

4. Every permit holder or other person shall, when requested by the department, make ~~such~~ additional reports as the department deems necessary and proper and shall at the request of the department furnish full and complete information pertaining to any transaction of the permit holder or other person involving the purchase or sale or use of cigarettes or purchase of cigarette stamps.

6. If any distributor, manufacturer, or other person fails or refuses to pay any tax, penalties, or cost of audit hereinafter provided, and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claims, in any judicial proceedings, any report filed in the office of the director by ~~such the~~ distributor, manufacturer, or other person, or the distributor's, manufacturer's, or other person's representative, or a copy thereof, certified to by the director, showing the number of cigarettes sold by ~~such the~~ distributor, or the distributor's representative, the manufacturer, or the other person, upon which ~~such a~~ tax, penalty, or cost of audit has not been paid, or any audit made by the department from the books or records of ~~said the~~ distributor, manufacturer, or other person when signed and sworn to by the agent of the department making the audit as being made from the records of ~~said the~~ distributor, manufacturer, or other person from or to whom ~~such the~~ distributor, manufacturer, or other person has bought, received, or delivered cigarettes, whether from a transportation company or otherwise, such report or audit shall be admissible in evidence in such proceedings and shall be prima facie evidence of the contents thereof; ~~provided, however, that~~. However, the incorrectness of ~~said the~~ report or audit may be shown.

Sec. 78. Section 453A.16, Code 1999, is amended to read as follows:
453A.16 MANUFACTURER'S PERMIT.

The department may, upon application of any manufacturer, issue without charge to ~~such the~~ manufacturer a manufacturer's permit. ~~Such The~~ application shall contain ~~such~~ information as the director shall prescribe. The holder of ~~such a~~ manufacturer's permit ~~shall be~~ is authorized to purchase stamps from the department, and ~~to~~ must affix ~~such~~ stamps to individual packages of cigarettes outside of this state, prior to their shipment into the state unless the cigarettes are shipped to an Iowa permitted distributor or an Iowa permitted distributor's agent.

Sec. 79. Section 453A.28, Code 1999, is amended to read as follows:
453A.28 ASSESSMENT OF TAX BY DEPARTMENT — INTEREST — PENALTY.

If after any audit, examination of records, or other investigation the department finds that any person has sold cigarettes without stamps affixed ~~thereto or that any person responsible for paying the tax has not done so~~ as required by this division, the department shall fix and determine the amount of tax due, and shall assess the tax against the person, together with a penalty as provided in section 421.27. The taxpayer shall pay interest on the tax or additional tax at the rate determined under section 421.7 counting each fraction of a month as an entire month, computed from the date the tax was due. If any person fails to furnish evidence satisfactory to the director showing purchases of sufficient stamps to stamp unstamped cigarettes purchased by the person, the presumption shall be that the cigarettes were sold without the proper stamps affixed ~~thereto~~. Within two years after the ~~return report~~ is filed or within two years after the ~~return report~~ became due, whichever is later, the department shall examine the ~~return report~~ and determine the correct amount of tax. The period for examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent report made with the intent to evade tax, or in the case of a failure to file a report, or if a person purchases or is in possession of unstamped cigarettes.

The two-year period of limitation may be extended by a taxpayer by signing a waiver agreement form to be provided by the department. The agreement must stipulate the period of extension and the tax period to which the extension applies. The agreement must also provide that a claim for refund may be filed by the taxpayer at any time during the period of extension.

Sec. 80. Section 453A.29, Code 1999, is amended to read as follows:

453A.29 NOTICE AND APPEAL.

The department shall notify any person assessed pursuant to section 453A.28 by sending a written notice of the determination by mail to the principal place of business of the person as shown on the person's application for permit, and if an application was not filed by the person, to the person's last known address. A determination by the department of the amount of tax, penalty, and interest due, or the amount of refund for excess tax paid, is final, unless the person aggrieved by the determination appeals to the director for a revision of the determination within sixty days from the ~~postmark~~ date of the notice of determination of tax, penalty, and interest or refund owing or unless the taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. The director shall grant a hearing and upon the hearing, the director shall determine the correct tax, penalty, and interest or refund due and notify the appellant of the decision by mail. Judicial review of action of the director may be sought in accordance with the Iowa administrative procedure Act and section 422.29.

Sec. 81. Section 453A.31, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

453A.31 CIVIL PENALTY FOR CERTAIN VIOLATIONS.

If a permit holder fails to keep any of the records required to be kept by the provisions of this division, or sells cigarettes upon which a tax is required to be paid by this division without at the time having a valid permit, or if a distributor, wholesaler, manufacturer, or distributing agent fails to make reports to the department as required, or makes a false or incomplete report to the department, or if a distributing agent stores unstamped cigarettes in the state or distributes or delivers unstamped cigarettes within this state without at the time of storage or delivery having a valid permit, or if a person purchases or is in possession of unstamped cigarettes, or if a person affected by this division fails or refuses to abide by any of its provisions or the rules adopted under this division, the person is civilly liable to the state for a penalty as follows:

1. For possession of unstamped cigarettes:
 - a. A two hundred dollar penalty for the first violation if a person is in possession of more than forty but not more than four hundred unstamped cigarettes.
 - b. A five hundred dollar penalty for the first violation if a person is in possession of more than four hundred but not more than two thousand unstamped cigarettes.
 - c. A one thousand dollar penalty for the first violation if a person is in possession of more than two thousand unstamped cigarettes.
 - d. For a second violation within two years of the first violation, the penalty is four hundred dollars if a person is in possession of more than forty but not more than four hundred unstamped cigarettes; one thousand dollars if a person is in possession of more than four hundred but not more than two thousand unstamped cigarettes; and two thousand dollars if a person is in possession of more than two thousand unstamped cigarettes.
 - e. For a third or subsequent violation within two years of the first violation, the penalty is six hundred dollars if a person is in possession of more than forty but not more than four hundred unstamped cigarettes; one thousand five hundred dollars if a person is in possession of more than four hundred but not more than two thousand unstamped cigarettes; and three thousand dollars if a person is in possession of more than two thousand unstamped cigarettes.
2. For all other violations of this section:
 - a. A two hundred dollar penalty for the first violation.
 - b. A five hundred dollar penalty for a second violation within two years of the first violation.
 - c. A thousand dollar penalty for a third or subsequent violation within two years of the first violation.

The penalty imposed under this section shall be assessed and collected pursuant to section 453A.28 and is in addition to the tax, penalty, and interest imposed in that section.

Sec. 82. Section 453A.45, subsections 2, 3, and 4, Code 1999, are amended to read as follows:

2. Every person who sells tobacco products to persons other than the ultimate consumer shall render with each sale itemized invoices showing the seller's name and address, the purchaser's name and address, the date of sale, and all prices and discounts. The person shall preserve legible copies of all such invoices for ~~one year~~ two years from the date of sale.

3. Every retailer and subjobber shall procure itemized invoices of all tobacco products purchased. The invoices shall show the name and address of the seller and the date of purchase. The retailer and subjobber shall preserve a legible copy of each such invoice for ~~one year~~ two years from the date of purchase. Invoices shall be available for inspection by the director or the director's authorized agents or employees at the retailer's or subjobber's place of business.

4. Records of all deliveries or shipments of tobacco products from any public warehouse of first destination in this state which is subject to the provisions of and licensed under chapter 554 shall be kept by the warehouse and be available to the director for inspection. They shall show the name and address of the consignee, the date, the quantity of tobacco products delivered, and such other information as the commissioner may require. These records shall be preserved for ~~one year~~ two years from the date of delivery of the tobacco products.

Sec. 83. Section 453A.46, subsections 1, 4, and 6, Code 1999, are amended to read as follows:

1. On or before the twentieth day of each calendar month every distributor with a place of business in this state shall file a return with the director showing the quantity and wholesale sales price of each tobacco product brought, or caused to be brought, into this state for sale; and made, manufactured or fabricated in this state for sale in this state, during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the director and shall contain other information as the director may require. Each return shall be accompanied by a remittance for the full tax liability shown on the return, less a discount as fixed by the director not to exceed five percent of the tax. Within two years after the return is filed or within two years after the return became due, whichever is later, the department shall examine it, determine the correct amount of tax, and assess the tax against the taxpayer for any deficiency. The period for examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax, or in the case of a failure to file a return.

The two-year period of limitation may be extended by a taxpayer by signing a waiver agreement form to be provided by the department. The agreement must stipulate the period of extension and the tax period to which the extension applies. The agreement must also provide that a claim for refund may be filed by the taxpayer at any time during the period of extension.

4. The department shall notify any person assessed pursuant to this section by sending a written notice of the determination by mail to the principal place of business of the person as shown on the person's application for permit, and if an application was not filed by the person, to the person's last known address. A determination by the department of the amount of tax, penalty, and interest due, or the amount of refund for excess tax paid, is final, unless the person aggrieved by the determination appeals to the director for a revision of the determination within sixty days from the ~~postmark~~ date of the notice of determination of tax, penalty, and interest or refund owing or unless the taxpayer contests the determination

by paying the tax, interest, and penalty and timely filing a claim for refund. The director shall grant a hearing and upon the hearing, the director shall determine the correct tax, penalty, and interest or refund due and notify the appellant of the decision by mail. Judicial review of action of the director may be sought in accordance with chapter 17A and section 422.29.

6. On or before the twentieth day of each calendar month, every consumer who, during the preceding calendar month, has acquired title to or possession of tobacco products for use or storage in this state, upon which tobacco products the tax imposed by section 453A.43 has not been paid, shall file a return with the director showing the quantity of tobacco products so acquired. The return shall be made upon a form furnished and prescribed by the director, and shall contain ~~such~~ other information as the director may require. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it. Within two years after the return is filed or within two years after the return became due, whichever is later, the department shall examine it, determine the correct amount of tax, and assess the tax against the taxpayer for any deficiency. The period for examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax, or in the case of a failure to file a return.

Sec. 84. Section 602.8102, subsection 59, Code 1999, is amended by striking the subsection.

Sec. 85. Section 422.90, Code 1999, is repealed.

Sec. 86. Section 450.92, Code 1999, is repealed.

Sec. 87. MACHINE, EQUIPMENT, AND COMPUTERS PROPERTY TAX.

1. By January 15, 2000, the department of economic development shall prepare and submit a report to the general assembly regarding the phaseout of the machine, equipment, and computers property tax including at least the following:

- a. The estimated impact on Iowa taxing jurisdictions.
- b. Recommendations for the modification or extension of the reimbursement formula.

2. The department may convene an advisory committee of local and state officials and technical experts to assist in the review of the phaseout of the machine, equipment, and computers property tax.

Sec. 88. DIRECTIONS TO CODE EDITOR. The Iowa Code editor shall transfer sections 427.3 through 427.7 to chapter 426A and change internal references as necessary.

Sec. 89. EFFECTIVE AND APPLICABILITY DATES.

1. Section 5 of this Act, amending section 422.13, subsection 5, applies retroactively to January 1, 1999, for tax years beginning on or after that date.

2. Section 7 of this Act, amending section 422.23, unnumbered paragraph 2, applies retroactively to January 1, 1999, for tax years beginning on or after that date.

3. Section 9 of this Act, amending section 422.25, subsection 3, applies retroactively to January 1, 1999, for tax years beginning on or after that date.

4. Section 11 of this Act, amending section 422.33, subsection 2, applies retroactively to January 1, 1999, for tax years beginning on or after that date.

5. Section 16 of this Act, amending section 422.45, subsection 2, as it relates to the transportation of natural gas, takes effect April 1, 2000.

6. Section 29 of this Act, amending section 422.121, applies retroactively to January 1, 1997, for tax years beginning on or after that date.

7. Sections 31, 32, 33, 36, 37, and 39 of this Act, amending chapters 422B and 422E, take effect May 1, 1999.

8. Sections 46 through 49 and section 86 of this Act, amending chapters 450 and 451, take effect July 1, 1999, for estates of decedents dying on or after that date.

9. Except as otherwise provided in this section, this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 20, 1999

CHAPTER 152

TAX ADMINISTRATION — ADDITIONAL RELATED MATTERS

S.F. 473

AN ACT relating to the administration of the state individual income tax, corporate income tax, sales and use taxes, franchise tax, replacement taxes on electric and natural gas providers, motor fuel taxes, inheritance and estate taxes, property taxes, collection of taxes and debts owed to or collected by the state, and including effective and retroactive applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 421.17, subsection 34, paragraph c, Code 1999, is amended to read as follows:

c. The director shall establish a formal debt collection policy for use by state agencies which have not established their own policy. Other state agencies may use the collection facilities of the department pursuant to formal agreement with the department. The agreement shall provide that the information provided to the department shall be sufficient to establish the obligation in a court of law and to render it as a legal judgment on behalf of the state. After transferring the file to the department for collection, an individual state agency shall terminate all collection procedures and be available to provide assistance to the department. Upon receipt of the file, the department shall assume all liability for its actions without recourse to the agency, and shall comply with all applicable state and federal laws governing collection of the debt. The department may use a participating agency's statutory collection authority to collect the participating agency's delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to or being collected by the state. The department has the powers granted in this section regarding setoff from income tax refunds or other accounts payable by the state for any of the obligations transferred by state agencies.

Sec. 2. Section 422.4, subsection 17, paragraph c, Code 1999, is amended by striking the paragraph.

Sec. 3. Section 422.25, subsection 9, Code 1999, is amended by striking the subsection.

Sec. 4. Section 422.32, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

"Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business; or income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations; or gain or loss resulting from the sale, exchange, or other disposition of real property or of tangible or intangible personal property, if the property while owned by the taxpayer was operationally related to the taxpayer's trade or business carried on in Iowa or operationally related to sources within Iowa, or the property was operationally related to sources outside this state and to the taxpayer's trade or